REMARKS

This responds to the Office Action mailed on October 6, 2009.

Claims 1, 9, and 22 are amended, no claims are canceled, and claims 30 - 32 are added; as a result, claims 1, 9-12, and 15-32 are now pending in this application.

Examiner Interview

The Applicants thank the Examiner for granting an interview that was conducted on January 12, 2010. In the course of the interview, the Examiner's position was discussed with respect to "a portion of the content item that can be played by a client system" and "determining that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" recited in claim 1.

The Examiner confirmed that his position is that a message that includes several fields, one of which includes "an identifier suitable for interrogating a database," as well as other fields that are not suitable for such interrogation is correlated with "portion of the content item [that] is not accompanied by an identifier suitable for interrogating a database" recited in claim 1.

The Examiner also confirmed that he views an audio signal of Philyaw (that comprises a trigger signal to trigger certain software into launching a web browser and also comprises advertiser product information[1]) as a "portion of the content item that can be played by a client system."

No agreement has been reached.

New Claims

New claims 30 - 31 were added. As is explained in detail below, the prior art references fail to disclose all limitations of claim 1. Thus, new claims 30 - 32 are patentable in view of cited prior art at least by virtue of being dependent on claim 1.

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[1] Philyaw, 5: 47-52.

§ 102 Rejection of the Claims

Claims 1, 9, 21-22 and 28-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Philyaw et al USPN (6098106).

Stated generally, Philyaw is not concerned with enhancing the rendering of content items. Philyaw proposes communicating, to the viewer's computer, advertiser information within the audio signal. This advertiser information is extracted from the audio signal at the viewer's computer and transmitted to a reference server that maintains a database of product codes and the associated addresses of respective advertiser servers. The advertiser information that is extracted from the audio signal at the viewer's computer is transmitted to a reference server in the form of a message packet that contains the URL of the reference server and the product code. The product code is used at the reference server for interrogating a database to determine the address of the advertiser server that stores information about the product.[2]

The Office Action cites the message packet (that contains the URL of the reference server and the product code) to show "a portion of the content item" recited in claim 1. Claim 1 requires that "a portion of the content item" is (1) received at a server system from a client system, (2) can be played by the client system, and (3) is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item.[3]

With respect to the requirement that "a portion of the content item" recited in claim 1 can be played by the client system, it has already been pointed out in the previous communication that a message packet shown in Figure 4a in Philyaw does not include any media objects or portions of media objects in general or any content that can be played by a client system. In the "Response to Arguments" section of the Office Action, the Examiner refers to the use of tones embedded within a program audio signals for controlling a user's computer[4] to counter the

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[2] Philyaw, Figures 2, 3, 4a; 5: 8 - 7:12.
[3] These requirements are expressed by the limitations "receiving, at a server system, a portion of the content item that can be played by a client system from the client system" and "determining that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" recited in claim 1.
[4] Philyaw, 4: 55-65.

Applicants' assertion that the control signal in Philyaw cannot be regarded as a content item that can be played by the client's computer. The tones embedded within audio signals mentioned in Philyaw are not received at the reference server (correlated by the Examiner with "a server system" recited in claim 1) but rather are used for controlling *a user's computer.* It is respectfully submitted that *information embedded in an audio signal that is sent to the client* is not the same as *a message that is sent from the client to the reference server and that is not embedded in an audio signal.* Therefore, the reference to "tones" in Philyaw does not indicate in any way that a message packet illustrated in Fig. 4a (correlated by the Examiner with "a portion of the content item" recited in claim 1) is audio content or any other type of content that can be played by a client system.

With respect to the requirement that "a portion of the content item" recited in claim 1 is not accompanied by an identifier suitable for interrogating a database, it has already been pointed out in the previous communications that the message received at the reference server in Philyaw contains advertiser product information (the product code) that is used to interrogate the database in order to determine the URL of the relevant advertiser server. A message that contains a product code that is used for interrogating a database is distinct from a content item that "is not accompanied by an identifier suitable for interrogating a database." In the "Response to arguments" section, on page 4 of the Detailed Description, the Office Action states that a message in Philyaw includes several fields, some of which are not used for interrogating product information in a database. While not every field in a message in Philyaw is used for interrogating a product information in a database, the fact that at least one field in the message contains an identifier that is used to interrogate the database means that Philyaw fails to disclose "the portion of the content item [that is received at the server system and that] is not accompanied by an identifier suitable for interrogating a database."

Because in Philyaw the message received at the reference server from a viewer's computer (1) cannot be played by a client system and (2) is accompanied the product code that is then used to interrogate a database, Philyaw fails to disclose "receiving, at a server system, a portion of the content item that can be played by a client system from the client system" and "determining that the portion of the content item is not accompanied by an identifier suitable for

interrogating a database to determine further information associated with the content item" recited in claim 1. Claim 1 and its dependent claims are thus patentable in view of Philyaw and should be allowed.

With respect to new claims 30 and 31, Philyaw does not contemplate receiving, at a reference server, a portion of a content item that can be played at the client system in general or receiving a portion of video or audio content in particular. While the advertiser information in Philyaw is extracted from an audio signal at the viewer's computer, there is no indication that the message packet that is used to send the extracted information to the reference server includes audio or video content or is send with an audio signal. Therefore, the new claims are patentable in view of Philyaw and should be allowed.

Claims 9, 22, and their respective dependent claims are patentable in view of Philyaw for at least the reasons articulated with respect to claim 1. It is respectfully requested that the rejections be withdrawn.

With respect to claim 29, the Examiner asserts that Philyaw discloses "detecting an indication of a user interest in a content item that can be played by a client system" and "responding to the indication by obtaining a portion of the content item from the client system, the portion of the content item being distinct from an identifier associated with the content item." While the Examiner correlated the message packet (illustrated in Figure 4a in Philyaw) to show "a portion of the content item," it is not clear what element of Philyaw is being regarded to correspond to "a content item that can be played by a client system," of which the message packet is a portion. It is respectfully requested that the Examiner explains which element of Philyaw is being regarded as corresponding to "*a content item*" recited in claim 29.

It is respectfully requested that the Examiner explains which element of Philyaw is being regarded as corresponding to "*an indication of a user interest in a content item that can be played by a client system.*"

It is respectfully requested that the Examiner explains which operation in Philyaw is being regarded as corresponding to the "*detecting*" of an indication of a user interest in a content item that can be played by a client system.

In Philyaw, a message packet (correlated by the Examiner with "a portion of the content item") is sent to the reference server from a viewer's computer. There is no indication that the reference server *responds to an indication of a user interest in a content item by obtaining the message packet.*

Because Philyaw fails to disclose all elements of claim 29, claim 29 is patentable in view of Philyaw and should be allowed.

Claims 1, 9, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Conwell et al USPN (6970886).

Conwell describes a method where a user of an audio file can utilize an identifier to query a database and obtain the URL of resources associated with that content.[5] Conwell describes that a consumer uses a personal computer or a wireless Internet appliance to decode an identifier from audio content and send the identifier to a Registry database, where each record includes an identifier and a corresponding URL. Conwell provides an example where an audio file does not have an affirmatively assigned identifier and where a compliant player processes the audio file data to derive an identifier.[6]

The Examiner cites a method where an identifier is sent to the registry database (correlated with a server system of claim 1 by the Examiner) to show elements of a method where a portion of a content item without an identifier is received at a server system so that the sever system has to process the received content in order to obtain an identifier. Receiving, at a registry database, *an identifier* for an audio file that was sent from a consumer's device is not the same as an operation where a server system receives *a portion of a content item that is distinct from an identifier associated with the content item.* Thus, Conwell fails to disclose "receiving, at a server system, a portion of the content item that can be played by a client system from the

[5] Conwell, Abstract.
[6] Conwell, 3:43 – 4: 13.

client system, the received portion of the content item being distinct from an identifier associated with the content item," as recited in claim 1. In view of the description provided in Conwell, where no portion of an audio file is ever sent to a server where the operation of deriving an identifier from an audio file is never performed at the server, other limitations of claim 1 are also missing from Conwell. Because Conwell does not disclose all features of claim 1, claim 1 and its dependent claims are patentable and should be allowed. It is respectfully requested that the rejection be withdrawn.

Claims 9, 22, and their respective dependent claims are patentable in view of Conwell for at least the reasons articulated with respect to claim 1. It is respectfully requested that the rejections be withdrawn.

§ 103 Rejection of the Claims

Claims 10 and 15-19, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Philyaw et al, USPN (6098106) in view of Herz et al USPN. (20010014868).

Claims 15-19 include the feature of "determining that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" by virtue of their being dependent on claim 1. Hertz, related to system for the automatic determination of customized prices and promotions (Hertz, Title), whether considered separately or in combination with Philyaw, fails to disclose or suggest this feature. Thus, claims 15-19 are patentable in view of the Philyaw and Hertz combination and should be allowed.

Claims 10 and 23-26 include a processor to "determine that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item." by virtue of their being dependent on claim 9. Hertz, whether considered separately or in combination with Philyaw, fails to disclose or suggest this feature. Thus, claims 10 and 23-26 are patentable in view of the Philyaw and Hertz combination and should be allowed.

Claims 11-12 were rejected under 35 U.S.C. § 103(a) as being obvious over Philyaw et al. (U.S. Patent No. 6,098,106) in view of Levy (U.S. Patent No. 6,505,160) and further in view of Herz et al. (U.S. Patent Application Publication No. 2001/0014868).

Claim 11 recites "determining that the media object is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the media object." As discussed above, in Philyaw, the message received at a reference server is accompanied by the product code that is then used to interrogate a database. Thus, Philyaw fails to disclose this feature recited in claim 11. Levy discusses transforming media objects into active, connected objects via identifiers embedded into them or their containers (Levy, Abstract) whether considered separately or in combination with Philyaw, does not remedy this deficiency of Philyaw. Hertz, related to system for the automatic determination of customized prices and promotions (Hertz, Title), whether considered separately or in combination with Philyaw and Levy also fails to disclose or suggest this feature. Because Philyaw/Levy/Hertz combination fails to disclose or suggest all features of clam 11, claim 11 and it dependent claim 12 are patentable in view of Philyaw/Levy/Hertz combination and should be allowed.

Claims 20 and 27 were rejected under 35 U.S.C. § 103(a) as being obvious over Philyaw et al. (U.S. Patent No. 6,098,106) in view of Herz et al. (U.S. Patent Application Publication No. 2001/0014868).

Claim 20 includes the feature of "determining that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" by virtue of its being dependent on claim 1. Herz, whether considered separately or in combination with Philyaw, fails to disclose or suggest this feature. Thus, claim 20 is patentable in view of the Philyaw and Herz combination and should be allowed.

Claim 27 includes a processor to "determine that the portion of the content item is not accompanied by an identifier suitable for interrogating a database to determine further information associated with the content item" by virtue of its being dependent on claim 9. Herz, whether considered separately or in combination with Philyaw, fails to disclose or suggest this

feature. Thus, claim 27 is patentable in view of the Philyaw and Herz combination and should be allowed.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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